

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ANGEL MALDONADO,

Petitioner,

v.

DECISION AND ORDER  
16-CV-481-A

BRUCE YELICH, SUPERINTENDENT,  
BARE HILL CORRECTIONAL FACILITY,

Respondent.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On May 23, 2018, Magistrate Judge McCarthy filed a Report and Recommendation (Dkt. No. 16), recommending that *pro se* Petitioner Angel Maldonado's petition for a writ of *habeas corpus* (Dkt. No. 1) be denied.

On August 20, 2018, Petitioner Maldonado filed objections to the Report and Recommendation (Dkt. No. 20). Respondent filed a response on September 6, 2018 (Dkt. No. 22), and Petitioner filed a reply on September 20, 2018 (Dkt. No. 23). The matter was deemed submitted without oral argument.

Pursuant to 28 U.S.C. § 636(b)(1), this Court reviews *de novo* those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the submissions from the parties, the Court adopts Magistrate Judge McCarthy's recommendation to deny petitioner's petition for a writ of *habeas corpus*. Petitioner has not satisfied the "high bar" of showing that a state court decision in his case was "contrary to, or involved an unreasonable application of, clearly

established Federal law, as determined by the Supreme Court of the United States.” 28 U.S.C. § 2254(d)(1); *Woods v. Donald*, 135 S. Ct. 1372, 1376 (2015) (observing that AEDPA imposes a “high bar” that is “intentionally difficult to meet”) (quotation marks omitted). See also *Cavazos v. Smith*, 565 U.S. 1, 2 (2011) (“A reviewing court may set aside the jury’s verdict on the ground of insufficient evidence only if no rational trier of fact could have agreed with the jury. What is more, a federal court may not overturn a state court decision rejecting a sufficiency challenge simply because the federal court disagrees with the state court.”)

Accordingly, and for the reasons set forth in Magistrate Judge McCarthy’s Report and Recommendation, *pro se* Petitioner Angel Maldonado’s petition for a writ of *habeas corpus* is denied.

Further, the Court declines to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right. Finally, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Decision and Order would not be taken in good faith. Thus, leave to appeal *in forma pauperis* is denied.

The Clerk of the Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: October 1, 2018